

S:\Roberts\OPINIONS\Corbo v Talascend Order.wpd

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ADISA CORBO,

Plaintiff,

vs

Case No: 12-14367
Honorable Victoria A. Roberts

TALASCEND, LLC.,

Defendant.

_____ /

**ORDER DENYING MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM (DOC. #6)**

Defendant filed the above entitled motion. Defendant asks the Court to dismiss Plaintiff's disparate treatment and hostile environment claims which she bases on her religion and national origin. These claims are not pled as separate counts. Rather, they seem to be part of counts for national origin and religious discrimination (§§ 36-37; 46-47; 55-56; 64-65).

Plaintiff is a Bosnian Muslim immigrant who was employed by Defendant for five months as a Senior Technical Recruiter. She alleges that co-workers primarily made remarks to her concerning her religion and ethnicity; that she complained to her manager about the effect the remarks had on her; that nothing was done by him; that she was isolated and not given certain passwords to get into recruiting websites; that she was not assigned job openings by her manager; and, ultimately, that she was constructively discharged. Plaintiff claims that co-workers who were not Bosnian and/or

Muslim were not treated in this fashion.

Defendant's Motion to Dismiss is **DENIED**.

To survive a motion to dismiss, the Plaintiff must allege enough facts to state a claim to relief that is plausible on its face. *Bell Atlantic Corp v Twombly*, 550 U.S. 544, 570 (2007). The Complaint must be construed in the light most favorable to the Plaintiff. *Power & Tel. Supply Co. v. SunTrust Banks, Inc.* 447 F.3d 923, 929-30 (6th Cir. 2006) (quoting *Bovee v. Coopers & Lybrand C.P.A.*, 272 F.3d 356, 360 (6th Cir. 2001)).

Defendant attaches 13 cases to its brief in support of its motion. What Defendant fails to point out is that ten of them were rulings in favor of the Defendants on motions for summary judgment - not Fed. R. Civ. P. 12(b)(6) motions to dismiss. Full discovery had been conducted before defense motions were filed. No discovery has been conducted in this case.

Plaintiff has sufficient context in her Complaint to support claims of disparate treatment and hostile work environment, as well as for national origin and religious discrimination. However, the Court will require Plaintiff to plead claims of hostile work environment and disparate treatment as separate counts rather the collapsing them into other counts.

The Court declines to dismiss the Complaint at this early pleading stage.

The motion to Dismiss is **DENIED**. Plaintiff must file a First Amended Complaint by February 15, 2013.

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 24, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 24, 2013.

s/Linda Vertriest
Deputy Clerk